

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

PATRICK KEENAN,

Plaintiff,

v.

HOME DEPOT U.S.A., INC., a foreign
corporation

Defendants.

No. 1:16-cv-04530

DEFENDANT’S AMENDED MOTION FOR SUMMARY JUDGMENT

Defendant, HOME DEPOT USA, INC. (“Home Depot”), by its attorneys, McVey & Parsky, LLC, submits this Motion for Summary Judgment under Fed R. Civ. P. 56 (1).

1. This case involves Patrick Keenan, who allegedly sustained injuries while removing lumber from a lumber bin at the Countryside, Illinois, Home Depot store. Keenan claims the safety cable on the bin in front of which he was standing snapped up and struck him in the eye, and after the alleged incident, Keenan claims he saw a board lying against a cable in another bin.

2. Keenan asserts negligence and premises liability claims against Home Depot.

3. Keenan’s claims are without merit because, among other things, Home Depot did not owe a duty to Keenan.

a. The lumber bins were not defective or dangerous.

b. Home Depot lacked actual or constructive notice of an alleged hazard.

4. Keenan’s claim is also without merit because he cannot prove Home Depot proximately caused Keenan’s alleged injuries.

5. The Court has subject matter jurisdiction to hear this case and decide this motion because Keenan is a citizen of the State of Illinois and not Georgia or Delaware. Home Depot is incorporated under the laws of the State of Delaware and maintains its principal place of business in Georgia. (SOF, ¶¶ 1–2). Keenan’s claimed damages exceed \$75,000. (*Id.*, ¶ 4).

6. Venue is proper because the alleged incident occurred in Countryside, Cook County, Illinois. (*Id.*, ¶ 3).

7. Home Depot has contemporaneously filed a Statement of Undisputed Material Facts, supporting exhibits, and a Memorandum of Law in support of this Motion.

8. Home Depot has not provided courtesy copies of its exhibits in accordance with the Northern District’s October 29, 2020, COVID-19 General Order, which prohibits courtesy copies. Home Depot’s amended motion cites to the same exhibits with the same exhibit numbers as the original motion, so the exhibits to this motion are the same as the courtesy copy exhibits Home Depot provided with its original motion. Home Depot will provide a new set of courtesy copies if the Court requests.

WHEREFORE, Defendant, HOME DEPOT U.S.A., INC., requests that the Court grant its Motion for Summary Judgment and enter judgment in favor of HOME DEPOT U.S.A., INC.

Respectfully submitted,

HOME DEPOT U.S.A., INC.

BY: /s/ Jonathan R. Sichtermann
JONATHAN R. SICHTERMANN (6313992)
One of its attorneys

McVEY & PARSKY, LLC
30 North LaSalle Street, Suite 2100
Chicago, IL 60602
Phone: 312/551-2130
Fax: 312/551-2131
Email: jrs@mcveyparsky-law.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 10, 2020, I electronically filed the foregoing with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record identified below via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronic Notice of Electronic Filing:

KEVIN J. MCNAMARA
McNamara Law Offices, P.C.
650 N. Dearborn, Suite 750
Chicago, Illinois 60654

McVEY & PARSKY, LLC
Attorney for Defendant
30 North LaSalle Street
Suite 2100
Chicago, IL 60602
Tel: (312) 551-2130
Fax: (312) 551-2131

By: /s/ Jonathan R. Sichtermann
JONATHAN R. SICHTERMANN
Illinois Bar #6313992